

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1723 & 1130
96TH GENERAL ASSEMBLY

5804L.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 99.1205, RSMo, and to enact in lieu thereof one new section relating to the distressed areas land assemblage tax credit.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 99.1205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.1205, to read as follows:

99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land Assemblage Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel [for a period of five years after the acquisition of such eligible parcel]. Acquisition costs shall not include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from a municipality;

(2) "Applicant", any person, firm, partnership, trust, limited liability company, or corporation which has:

(a) Incurred, within an eligible project area, acquisition costs for the acquisition of land sufficient to satisfy the requirements under subdivision (8) of this subsection; and

(b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop an urban renewal area or a redevelopment area that includes all of an eligible project area or whose redevelopment plan or redevelopment area, which encompasses all of an eligible project area, has been approved or adopted under an economic incentive law. In addition to being

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 designated the redeveloper, the applicant shall have been designated to receive economic
20 incentives only after the municipal authority has considered the amount of the tax credits in
21 adopting such economic incentives as provided in subsection 8 of this section **unless such**
22 **economic incentives were approved for an eligible project area qualified as such under**
23 **subparagraph c. of paragraph (b) of subdivision (8) of this subsection.** The redevelopment
24 agreement shall provide that[:

25 a.] the funds generated through the use or sale of the tax credits issued under this section
26 shall be used to redevelop the eligible project area[;] . **Additionally, except for projects in**
27 **eligible project areas qualified as such under subparagraph c. of paragraph (b) of**
28 **subdivision (8) of this subsection, the redevelopment agreement shall provide that:**

29 [b.] a. No more than seventy-five percent of the urban renewal area identified in the
30 urban renewal plan or the redevelopment area identified in the redevelopment plan may be
31 redeveloped by the applicant; and

32 [c.] b. The remainder of the urban renewal area or the redevelopment area shall be
33 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its
34 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

35 (3) "Certificate", a tax credit certificate issued under this section;

36 (4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to
37 initiate an action in a court of competent jurisdiction to use the power of eminent domain to
38 acquire a parcel within the eligible project area. Condemnation proceedings shall include any
39 and all actions taken after the submission of a notice of intended acquisition to an owner of a
40 parcel within the eligible project area by a municipal authority or any other person or entity under
41 section 523.250;

42 (5) "Department", the Missouri department of economic development;

43 (6) "Economic incentive laws", any provision of Missouri law pursuant to which
44 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,
45 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment
46 projects approved or adopted which include the use of economic incentives to redevelop the land.
47 Economic incentive laws include, but are not limited to, the land clearance for redevelopment
48 authority law under sections 99.300 to 99.660, the real property tax increment allocation
49 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic
50 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation
51 program under sections 99.1080 to 99.1092;

52 (7) "Eligible parcel", a parcel:

53 (a) Which is located within an eligible project area;

54 (b) Which is to be redeveloped;

55 (c) On which the applicant has not commenced construction prior to November 28,
56 2007;

57 (d) Which has been acquired without the commencement of any condemnation
58 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel
59 acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

60 (e) On which all outstanding taxes, fines, and bills levied by municipal governments that
61 were levied by the municipality during the time period that the applicant held title to the eligible
62 parcel have been paid in full;

63 (8) "Eligible project area", an area which shall have satisfied the following requirements:

64 (a) The eligible project area shall consist of at least seventy-five acres and may include
65 parcels within its boundaries that do not constitute an eligible parcel;

66 (b) At least eighty percent of the eligible project area shall be located within:

67 a. A Missouri qualified census tract area, as designated by the United States Department
68 of Housing and Urban Development under 26 U.S.C. Section 42[,] ; or [within]

69 b. A distressed community as that term is defined in section 135.530; or

70 c. A redevelopment area, as such term is defined in sections 99.800 to 99.865, that:

71 (i) Contains at least three hundred acres of real property;

72 (ii) Includes or previously included in excess of one million square feet of
73 commercial building space;

74 (iii) Contains eighty or more parcels; and

75 (iv) Is located within a low-income community as defined in 26 U.S.C. Section 45D
76 as of January 1, 2011;

77 (c) The eligible parcels acquired by the applicant within the eligible project area shall
78 total at least fifty acres, which may consist of contiguous and noncontiguous parcels;

79 (d) **Other than in eligible project areas qualified as such under subparagraph c. of**
80 **paragraph (b) of this subdivision,** the average number of parcels per acre in an eligible project
81 area shall be four or more;

82 (e) Less than five percent of the acreage within the boundaries of the eligible project area
83 shall consist of owner-occupied residences which the applicant has identified for acquisition
84 under the urban renewal plan or the redevelopment plan pursuant to which the applicant was
85 appointed or selected as the redeveloper or by which the person or entity was qualified as an
86 applicant under this section on the date of the approval or adoption of such plan;

87 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include
88 attorney's fees;

89 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of
90 removing trash, and costs of cutting grass and weeds;

91 (11) "Municipal authority", any city, town, village, county, public body corporate and
92 politic, political subdivision, or land trust of this state established and authorized to own land
93 within the state;

94 (12) "Municipality", any city, town, village, or county;

95 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or
96 recorded as the property of, one or more persons or entities;

97 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan
98 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible
99 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or
100 eliminated by redevelopment or rehabilitation; and

101 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement
102 into which the applicant entered with a municipal authority and which is the agreement for the
103 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant
104 was appointed or selected as the redeveloper or by which the person or entity was qualified as
105 an applicant under this section; and such appointment or selection shall have been approved by
106 an ordinance of the governing body of the municipality, or municipalities, or in the case of any
107 city not within a county, the board of aldermen, in which the eligible project area is located. The
108 redevelopment agreement shall include a time line for redevelopment of the eligible project area.
109 The redevelopment agreement shall state that the named developer shall be subject to the
110 provisions of chapter 290.

111 3. **Subject to the limitations provided in subsection 7 of this section**, any applicant
112 shall be entitled to a tax credit against the taxes imposed under chapters 143, 147, and 148,
113 except for sections 143.191 to 143.265, in an amount equal to fifty percent of the acquisition
114 costs, **except that the tax credit for reasonable demolition costs shall be in an amount equal**
115 **to one hundred percent of such costs**, and one hundred percent of the interest costs incurred
116 [for a period of five years] after the acquisition of an eligible parcel. [No tax credits shall be
117 issued under this section until after January 1, 2008.]

118 4. If the amount of such tax credit exceeds the total tax liability for the year in which the
119 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be
120 carried forward for credit against the taxes imposed under chapters 143, 147, and 148 for the
121 succeeding six years, or until the full credit is used, whichever occurs first. The applicant shall
122 not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265. Applicants
123 entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax credits
124 granted to a partnership, a limited liability company taxed as a partnership, or multiple owners
125 of property shall be passed through to the partners, members, or owners respectively pro rata or

126 pursuant to an executed agreement among the partners, members, or owners documenting an
127 alternate distribution method.

128 5. A purchaser, transferee, or assignee of the tax credits authorized under this section
129 may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise
130 imposed under chapters 143, 147, and 148, except for sections 143.191 to 143.265. A seller,
131 transferor, or assignor shall perfect such transfer by notifying the department in writing within
132 thirty calendar days following the effective date of the transfer and shall provide any information
133 as may be required by the department to administer and carry out the provisions of this section.

134 6. To claim tax credits authorized under this section, an applicant shall submit to the
135 department an application for a certificate. An applicant shall identify the boundaries of the
136 eligible project area in the application. The department shall verify that the applicant has
137 submitted a valid application in the form and format required by the department. The department
138 shall verify that the municipal authority held the requisite hearings and gave the requisite notices
139 for such hearings in accordance with the applicable economic incentive act, and municipal
140 ordinances. On [an annual] **a quarterly** basis, an applicant may file for the tax credit for the
141 acquisition costs, and for the tax credit for the interest costs, subject to the limitations of this
142 section. If an applicant applying for the tax credit meets the criteria required under this section,
143 the department shall issue a certificate in the appropriate amount. If an applicant receives a tax
144 credit for maintenance costs as a part of the applicant's acquisition costs, the department shall
145 post on its Internet website the amount and type of maintenance costs and a description of the
146 redevelopment project for which the applicant received a tax credit within thirty days after the
147 department issues the certificate to the applicant.

148 7. The total aggregate amount of tax credits authorized under this section shall not
149 exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued
150 under this section exceed [twenty] **thirty** million dollars. If the tax credits that are to be issued
151 under this section exceed, in any year, the [twenty] **thirty** million dollar limitation, the
152 department shall either:

153 (1) Issue tax credits to the applicant in the amount of [twenty] **thirty** million dollars, if
154 there is only one applicant entitled to receive tax credits in that year; or

155 (2) **(a)** Issue the tax credits [on a pro rata basis] to all applicants entitled to receive tax
156 credits in that year **as provided in this subdivision. The department shall determine on an**
157 **ongoing basis during the course of each calendar year the amount of tax credits that have**
158 **been issued to each applicant for each eligible project area during such year, and the**
159 **amount of tax credits remaining available for issuance with respect to such calendar year,**
160 **if any.**

161 **(b) Applicants applying for tax credits with respect to projects located in eligible**
162 **project areas qualified as such under subparagraph c. of paragraph (b) of subdivision (8)**
163 **of subsection 2 of this section shall not, in the aggregate, be issued tax credits in excess of**
164 **fifty percent of the annual thirty million dollar limitation with respect to such calendar**
165 **year. If more than one applicant qualifies for issuance of tax credits under the beginning**
166 **sentence of this paragraph in a given calendar year, such tax credits shall be issued on a**
167 **pro rata basis. Applicants applying for tax credits with respect to projects located in any**
168 **other eligible project areas shall not, in the aggregate, be issued tax credits in excess of fifty**
169 **percent of the annual thirty million dollar limitation with respect to such calendar year,**
170 **and if more than one applicant qualifies for issuance of such tax credits in a given calendar**
171 **year, such tax credits shall be issued on a pro rata basis.**

172 **(c) In the event that the department determines, as of December fifteenth of a given**
173 **calendar year, that the full amount of tax credits available for such calendar year under**
174 **paragraph (b) of this subdivision with respect to projects located in eligible project areas**
175 **qualified as such under subparagraph c. of paragraph (b) of subdivision (8) of subsection**
176 **2 of this section, was not issued, then the department shall make available for allocation**
177 **to qualifying applicants with respect to projects located in any other eligible project areas,**
178 **the unissued amount of such tax credits. In the event that the department determines, as**
179 **of December fifteenth of a given calendar year, that the full amount of tax credits available**
180 **for such calendar year under paragraph (b) of this subdivision with respect to projects not**
181 **located in eligible project areas qualified as such under subparagraph c. of paragraph (b)**
182 **of subdivision (8) of subsection 2 of this section, was not issued, then the department shall**
183 **make available for allocation to qualifying applicants with respect to projects located in**
184 **eligible project areas in which qualified as such under subparagraph c. of paragraph (b)**
185 **of subdivision (8) of subsection 2 of this section, the unissued amount of such tax credits.**

186 **(d) Any amount of tax credits, which an applicant is, or applicants are, entitled to receive**
187 **on an annual basis and are not issued due to the [twenty] thirty million dollar limitation, shall**
188 **be carried forward for the benefit of the applicant or applicants to subsequent years. No tax**
189 **credits provided under this section shall be authorized after August 28, [2013] 2016. Any tax**
190 **credits which have been authorized on or before August 28, [2013] 2016, but not issued, may be**
191 **issued, subject to the limitations provided under this subsection, until all such authorized tax**
192 **credits have been issued.**

193 **8. Upon issuance of any tax credits pursuant to this section, the department shall report**
194 **to the municipal authority the applicant's name and address, the parcel numbers of the eligible**
195 **parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for**
196 **which tax credits were issued, and the total value of the tax credits issued. The municipal**

197 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but
198 shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created
199 for the purpose of awarding other economic incentives. The amount of the tax credits shall not
200 be considered an applicant's cost in the evaluation of the amount of any award of any other
201 economic incentives, but shall be considered in measuring the reasonableness of the rate of
202 return to the applicant with respect to such award of other economic incentives. The municipal
203 authority shall provide the report to any relevant commission, board, or entity responsible for the
204 evaluation and recommendation or approval of other economic incentives to assist in the
205 redevelopment of the eligible project area. Tax credits authorized under this section shall
206 constitute redevelopment tax credits, as such term is defined under section 135.800, and shall
207 be subject to all provisions applicable to redevelopment tax credits provided under sections
208 135.800 to 135.830.

209 9. The department may promulgate rules to implement the provisions of this section.
210 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
211 authority delegated in this section shall become effective only if it complies with and is subject
212 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
213 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
214 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
215 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
216 or adopted after August 28, 2007, shall be invalid and void.

217 **10. On January 1, 2016, the department shall review any project undertaken within**
218 **an eligible project area qualified as such under subparagraph c. of paragraph (b) of**
219 **subdivision (8) of subsection 2 of this section. In the event that the department determines**
220 **in its reasonable discretion that such project has not promoted, grown, or retained, or is**
221 **not reasonably likely to promote, grow, or retain significant employment within the state**
222 **of Missouri, then the department may reduce or otherwise modify any state assistance or**
223 **tax credits approved for the applicant undertaking such projects other than those credits**
224 **granted to the applicant under this section and in an amount not to exceed the credits**
225 **granted to the applicant under this section.**

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